



House of Representatives

General Assembly

File No. 529

February Session, 2014

Substitute House Bill No. 5311

House of Representatives, April 14, 2014

The Committee on Government Administration and Elections reported through REP. JUTILA of the 37th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT RAISING THE THRESHOLD FOR STATE CONSTRUCTION CONTRACTS REQUIRING THE APPROVAL OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND FOR COMPETITIVE BIDDING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4b-52 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) (1) No repairs, alterations or additions involving expense to the
5 state of [five hundred thousand] one million dollars or less or, in the
6 case of repairs, alterations or additions to a building rented or
7 occupied by the Judicial Branch, one million two hundred fifty
8 thousand dollars or less or, in the case of repairs, alterations or
9 additions to a building rented or occupied by a constituent unit of the
10 state system of higher education, two million dollars or less, shall be
11 made to any state building or premises occupied by any state officer,
12 department, institution, board, commission or council of the state

13 government and no contract for any construction, repairs, alteration or
14 addition shall be entered into without the prior written approval of the
15 Commissioner of Administrative Services and notification to the
16 Secretary of the Office of Policy and Management, except repairs,
17 alterations or additions to a building under the supervision and
18 control of the Joint Committee on Legislative Management and repairs,
19 alterations or additions to a building under the supervision of The
20 University of Connecticut. Repairs, alterations or additions which are
21 made pursuant to such approval of the Commissioner of
22 Administrative Services shall conform to all guidelines and procedures
23 established by the Department of Administrative Services for agency-
24 administered projects. (2) Notwithstanding the provisions of
25 subdivision (1) of this subsection, repairs, alterations or additions
26 involving expense to the state of [five hundred thousand] one million
27 dollars or less may be made to any state building or premises under
28 the supervision of the Office of the Chief Court Administrator or a
29 constituent unit of the state system of higher education, under the
30 terms of section 4b-11, and any contract for any such construction,
31 repairs or alteration may be entered into by the Office of the Chief
32 Court Administrator or a constituent unit of the state system of higher
33 education without the approval of the Commissioner of
34 Administrative Services.

35 (b) Except as provided in this section, no repairs, alterations or
36 additions involving an expense to the state of more than [five hundred
37 thousand] one million dollars or, in the case of repairs, alterations or
38 additions to a building rented or occupied by the Judicial Branch, more
39 than one million two hundred fifty thousand dollars, or, in the case of
40 repairs, alterations or additions to a building rented or occupied by a
41 constituent unit of the state system of higher education, more than two
42 million dollars, shall be made to any state building or premises
43 occupied by any state officer, department, institution, board,
44 commission or council of the state government, nor shall any contract
45 for any construction, repairs, alteration or addition be entered into,
46 until the Commissioner of Administrative Services or, in the case of the
47 construction or repairs, alterations or additions to a building under the

48 supervision and control of the Joint Committee on Legislative
49 Management of the General Assembly, said joint committee or, in the
50 case of construction, repairs, alterations or additions to a building
51 involving expenditures in excess of [five hundred thousand] one
52 million dollars but not more than one million two hundred fifty
53 thousand dollars under the supervision and control of the Judicial
54 Branch, said Judicial Branch or, in the case of the construction, repairs,
55 alterations or additions to a building involving expenditures in excess
56 of [five hundred thousand] one million dollars but not more than two
57 million dollars under the supervision and control of one of the
58 constituent units of higher education, the constituent unit, has invited
59 bids thereon and awarded a contract thereon, in accordance with the
60 provisions of sections 4b-91 to 4b-96, inclusive, as amended by this act.
61 The Commissioner of Administrative Services, with the approval of
62 the authority having the supervision of state employees or the custody
63 of inmates of state institutions, without the necessity of bids, may
64 employ such employees or inmates and purchase or furnish the
65 necessary materials for the construction, erection, alteration, repair or
66 enlargement of any such state building or premises occupied by any
67 state officer, department, institution, board, commission or council of
68 the state government.

69 (c) Whenever the Commissioner of Administrative Services declares
70 that an emergency condition exists at any state facility, other than a
71 building under the supervision and control of the Joint Committee on
72 Legislative Management, and that the condition would adversely
73 affect public safety or the proper conduct of essential state government
74 operations, or said joint committee declares that such an emergency
75 exists at a building under its supervision and control, the
76 commissioner or the joint committee may employ such assistance as
77 may be required to restore facilities under their control and
78 management, or the commissioner may so act upon the request of a
79 state agency, to restore facilities under the control and management of
80 such agency, without inviting bids as required in subsection (b) of this
81 section. The commissioner shall take no action requiring the
82 expenditure of more than [five hundred thousand] one million dollars

83 to restore any facility under this subsection (1) without the written
84 consent of the Governor, and (2) until the commissioner has certified to
85 the joint committee of the General Assembly having cognizance of
86 matters relating to legislative management that the project is of such
87 an emergency nature that an exception to subsection (b) of this section
88 is required. Such certification shall include input from all affected
89 agencies, detail the need for the exception and include any relevant
90 documentation. The provisions of this subsection shall not apply if any
91 person is obligated under the terms of an existing contract with the
92 state to render such assistance. The annual report of the commissioner
93 shall include a detailed statement of all expenditures made under this
94 subsection.

95 (d) The Commissioner of Administrative Services may, during the
96 term of a lease of a building or premises occupied by any state offices,
97 department, institution, board, commission or council of the state
98 government, (1) renegotiate the lease in order to enable the lessor to
99 make necessary alterations or additions up to a maximum amount of
100 five hundred thousand dollars, and subject to the approval of the State
101 Properties Review Board, or (2) require that a security audit be
102 conducted for such building or premises and, if necessary, renegotiate
103 the lease in order to enable the lessor to make necessary alterations or
104 additions to bring the building or premises into compliance with the
105 security standards for state agencies established under section 4b-132.
106 Alterations or additions under subdivision (2) of this subsection shall
107 not be subject to the spending limit in subdivision (1) of this
108 subsection, and a renegotiated lease under said subdivision (2) shall be
109 subject to the approval of the State Properties Review Board, provided
110 such approval requirement shall not compromise the security
111 requirements of chapter 60a and this section. The commissioner shall
112 determine the manner of submission, conditions and requirements of
113 bids and awards made for alterations or additions under this
114 subsection. No lease shall be renegotiated under this subsection for a
115 term less than five years. As used in this subsection, "security" and
116 "security audit" have the meanings assigned to such terms in section
117 4b-130.

118 Sec. 2. Subsection (a) of section 4b-91 of the general statutes is
119 repealed and the following is substituted in lieu thereof (*Effective from*
120 *passage*):

121 (a) Every contract for the construction, reconstruction, alteration,
122 remodeling, repair or demolition of any public building or any other
123 public work by the state except a public highway or bridge project or
124 any other construction project administered by the Department of
125 Transportation, which is estimated to cost more than [five hundred
126 thousand] one million dollars, except a contract awarded by the
127 Commissioner of Administrative Services for (1) a community court
128 project, as defined in subsection (j) of section 4b-55, (2) the downtown
129 Hartford higher education center project, as defined in subsection (l) of
130 section 4b-55, (3) a correctional facility project, as defined in subsection
131 (m) of section 4b-55, (4) a juvenile detention center project, as defined
132 in subsection (n) of section 4b-55, or (5) a student residential facility for
133 the Connecticut State University System that is a priority higher
134 education facility project, as defined in subsection (f) of section 4b-55,
135 shall be awarded to the lowest responsible and qualified general
136 bidder who is prequalified pursuant to section 4a-100 on the basis of
137 competitive bids in accordance with the procedures set forth in this
138 chapter, after the Commissioner of Administrative Services or, in the
139 case of a contract for the construction of or work on a building or other
140 public work under the supervision and control of the Joint Committee
141 on Legislative Management of the General Assembly, the joint
142 committee or, in the case of a contract for the construction of or work
143 on a building or other public work under the supervision and control
144 of one of the constituent units of the state system of higher education,
145 the constituent unit, has invited such bids by notice posted on the State
146 Contracting Portal. Every contract for the construction, reconstruction,
147 alteration, remodeling, repair or demolition of any public building or
148 any other public work by a public agency that is paid for, in whole or
149 in part, with state funds and that is estimated to cost more than [five
150 hundred thousand] one million dollars, except a public highway or
151 bridge project or any other construction project administered by the
152 Department of Transportation, shall be awarded to a bidder that is

153 prequalified pursuant to section 4a-100 after the public agency has
154 invited such bids by notice posted on the State Contracting Portal. The
155 Commissioner of Administrative Services, the joint committee, the
156 constituent unit or the public agency, as the case may be, shall indicate
157 the prequalification classification required for the contract in such
158 notice. As used in this section, "prequalification classification" means
159 the prequalification classifications established by the Commissioner of
160 Administrative Services pursuant to section 4a-100. As used in this
161 section, "public agency" means public agency, as defined in section 1-
162 200.

163 Sec. 3. Subsection (b) of section 4b-51 of the general statutes is
164 repealed and the following is substituted in lieu thereof (*Effective from*
165 *passage*):

166 (b) No officer, department, institution, board, commission or council
167 of the state government, except the Commissioner of Administrative
168 Services, the Commissioner of Transportation, the Connecticut
169 Marketing Authority, the Department of Agriculture for purposes of
170 the program established pursuant to section 26-237a, the Joint
171 Committee on Legislative Management, the Judicial Branch or a
172 constituent unit of the state system of higher education as authorized
173 in subsection (a) of this section, shall, unless otherwise specifically
174 authorized by law, make or contract for the making of any alteration,
175 repair or addition to any real asset involving an expenditure of more
176 than [five hundred thousand] one million dollars.

177 Sec. 4. Section 4e-42 of the general statutes is repealed and the
178 following is substituted in lieu thereof (*Effective from passage*):

179 [Not later than June 1, 2010, the] The State Contracting Standards
180 Board shall adopt regulations, in accordance with the provisions of
181 chapter 54, that require bid security for all competitive sealed bidding
182 for construction contracts in a design-bid-build procurement when the
183 price is estimated by the state contracting agency to exceed [five
184 hundred thousand] one million dollars.

185 Sec. 5. Subdivision (2) of subsection (c) of section 10a-109n of the
186 2014 supplement to the general statutes is repealed and the following
187 is substituted in lieu thereof (*Effective from passage*):

188 (2) (A) Except as provided in subparagraph (B) of this subdivision,
189 any total cost basis contract or other contract for the construction of a
190 university project which is estimated to cost more than [five hundred
191 thousand] one million dollars, shall be publicly let by the university.
192 The university shall give notice to contractors interested in
193 prequalifying to submit a project proposal or bid, by advertising, at
194 least once, in one or more newspapers having general circulation in the
195 state and by posting the advertisement on the university web site. The
196 notice to prequalify shall contain the requirement that contractors be
197 prequalified pursuant to section 4a-100, a statement of the time and
198 place where the responses shall be received and such additional
199 information as the university deems appropriate. Upon receipt of such
200 responses, the university shall select each contractor who has been
201 prequalified pursuant to section 4a-100 and has shown itself able to
202 post surety bonds required by such contract and has demonstrated
203 that it possesses the financial, managerial and technical ability and the
204 integrity necessary and without conflict of interest for faithful and
205 efficient performance of the work provided for therein. The university
206 shall evaluate whether each such contractor is responsible and
207 qualified based on its experience with projects similar to that for which
208 the bid or proposal is to be submitted and based on objective written
209 criteria included in the application to request prequalification with
210 respect to such contract. The university shall also consider whether a
211 contractor, and any subcontractor on the contractor's previous projects,
212 has been in compliance with the provisions of part III of chapter 557
213 and chapter 558 during the previous five calendar years.

214 (B) Notwithstanding the provisions of subparagraph (A) of this
215 subdivision, the board of trustees may approve a total cost basis
216 contract or other contract for the construction of a university project
217 which is estimated to cost more than [five hundred thousand] one
218 million dollars that has not been publicly let pursuant to the provisions

219 of said subparagraph (A), provided the board deems the contract to
220 address an emergency.

221 Sec. 6. Section 13b-20n of the general statutes is repealed and the
222 following is substituted in lieu thereof (*Effective from passage*):

223 With respect to any contract for the construction, reconstruction,
224 alteration, remodeling, repair or demolition of any public building
225 under the supervision and control of the Commissioner of
226 Transportation which contract is estimated to cost more than [five
227 hundred thousand] one million dollars and is not subject to section 4b-
228 51, as amended by this act, the Commissioner of Transportation shall
229 award the contract to the lowest responsible and qualified bidder, as
230 defined in section 4b-92, in accordance with regulations which the
231 commissioner shall adopt, in accordance with chapter 54. Such
232 regulations shall establish, at a minimum: (1) Standards for the
233 advertisement of opportunities to bid, (2) objective criteria for
234 evaluating the qualifications of bidders, (3) the procedures for
235 evaluating bids after the prequalification status of a bidder has been
236 verified, and (4) award panels for the purpose of screening submitted
237 proposals, interviewing bidders and making recommendations to the
238 commissioner. Any contract that is subject to section 4b-51, as
239 amended by this act, shall be awarded by the Commissioner of
240 Administrative Services in accordance with chapter 60.

241 Sec. 7. Subsection (a) of section 4b-24b of the general statutes is
242 repealed and the following is substituted in lieu thereof (*Effective from*
243 *passage*):

244 (a) Whenever realty uses designed uniquely for state use and for
245 periods over five years are concerned, the Commissioner of
246 Administrative Services shall, whenever practicable, attempt to
247 construct on state-owned land. Whenever the Commissioner of
248 Administrative Services has established specific plans and
249 specifications for new construction on state land or new construction
250 for sale to the state: (1) If it appears to the commissioner that the cost of
251 the project shall be less than [five hundred thousand] one million

252 dollars, contracts shall be made, where practicable, through a process
 253 of sealed bidding as provided in section 4b-91, as amended by this act,
 254 relating to projects in excess of [five hundred thousand] one million
 255 dollars; (2) if it appears to the commissioner that the space needs of the
 256 requesting agency are less than five thousand square feet, the
 257 commissioner shall, whenever practicable, carry on advertising, in
 258 accordance with the provisions of section 4b-34 relating to projects in
 259 excess of five thousand square feet, in order to allow an equal
 260 opportunity for third parties to do business with the state without
 261 regard to political affiliation, political contributions or relationships
 262 with persons in state, federal or local governmental positions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4b-52
Sec. 2	<i>from passage</i>	4b-91(a)
Sec. 3	<i>from passage</i>	4b-51(b)
Sec. 4	<i>from passage</i>	4e-42
Sec. 5	<i>from passage</i>	10a-109n(c)(2)
Sec. 6	<i>from passage</i>	13b-20n
Sec. 7	<i>from passage</i>	4b-24b(a)

Statement of Legislative Commissioners:

In section 4, the date was bracketed for consistency with the new requirement and section 7 was added to conform with the changes being made throughout the bill.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Dept. of Administrative Services	GF - Potential Revenue Loss	Up to 9,000	Up to 9,000

Municipal Impact: None

Explanation

The bill increases, from \$500,000 to \$1 million, the maximum capital improvement expenditures state agencies can make without triggering the requirement for competitive bids. This may result in revenue loss of up to \$9,000 if fewer subcontractors choose not to renew their Department of Administrative Services (DAS) prequalification certificate. There are currently 30 contractors registered with DAS who have an aggregate work capacity of less than \$1 million. If these contractors do not renew their prequalification certificate with DAS at the \$300 annual renewable fee, there may be a revenue loss of up to \$9,000.

The other provisions are expected to streamline the administrative process for construction projects costing between \$500,000 and \$1 million. This is not anticipated to result in a fiscal impact because any reduction in the amount of time needed to administer such projects will be used to administer and oversee other state construction projects.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5311*****AN ACT RAISING THE THRESHOLD FOR STATE CONSTRUCTION CONTRACTS REQUIRING THE APPROVAL OF THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND FOR COMPETITIVE BIDDING.*****SUMMARY:**

This bill gives Executive Branch agencies authority to manage more of their construction projects with the Department of Administrative Services (DAS) commissioner's approval. It does so by increasing, from \$500,000 to \$1 million, the maximum these state agencies can spend to alter, repair, or make additions to public buildings (capital improvements) with DAS' prior approval (see BACKGROUND). It requires the Executive Branch agencies as well as the Judicial Branch and higher education constituent units, which have higher spending thresholds, to get the prior approval in writing and notify the Office of Policy and Management secretary.

It likewise increases, from \$500,000 to \$1 million, the maximum capital improvement expenditures state agencies can make without triggering the requirement for competitive bids and awarding contracts to the lowest responsible qualified bidder who is pre-qualified to work on state construction projects. The increase applies to state agencies, including the Judicial Branch, constituent units of higher education, the Department of Transportation (DOT), and the Joint Committee on Legislative Management (Legislative Management). The bill requires the DAS commissioner to award contracts based on sealed bids, where practicable, for new construction public works projects expected to cost less than \$1 million.

The bill increases, from \$500,000 to \$1 million, the cost threshold at which the University of Connecticut (UConn) must (1) publicly bid

university construction projects and (2) separately prequalify contractors that seek to bid on them. However, the bill retains the existing requirement that UConn projects using the design-build or construction manager at-risk delivery methods be awarded to a DAS-prequalified contractor if they are expected to cost more than \$500,000. By law, contractors must first prequalify with UConn before they are invited to bid on certain UConn construction projects. Only DAS-prequalified contractors are eligible to prequalify for UConn projects.

The bill increases, from \$500,000 to \$1 million, the amount (1) the DAS commissioner can spend without inviting bids to restore a public building after he declares that emergency conditions exist and (2) UConn's board of trustees can spend without inviting public bids, when emergency conditions exist.

The bill requires the State Contracting Standards Board to adopt regulations requiring bid security for design-bid-build contracts estimated to exceed \$1 million, rather than \$500,000.

Lastly, the bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

BACKGROUND

State Construction Contracts

With some exceptions, the DAS commissioner is responsible for capital improvements to most state buildings that house Executive Branch agencies or offices, except most state agencies can (1) contract to spend and (2) spend up to \$500,000 to repair, alter, or make additions to buildings if they get the DAS commissioner's approval.

The commissioner also approves improvements to buildings that the Judicial Branch occupies, but the threshold triggering the approval is higher.

DAS is not responsible for improvements to buildings (1) under the supervision and control of Legislative Management or (2) under

UConn's supervision.

Related Bill

sSB 248, reported favorably by the Government Administration and Elections Committee, increases the competitive bidding threshold to \$1.5 million for DAS-administered projects only. It retains the \$500,000 threshold for agencies to administer their own projects.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 0 (03/24/2014)